

Settlement Communication Confidential

6/22/12

USS: Discussion with USS, DOJ, EPA Attorneys

Re: Initiating Settlement Discussions and USS's demand that we take certain items off the table.

From Rob:

Arnie- Met with US Steel towards end of March. Gave powerpoint proposal for what we would like to see. Called on 29th to respond, telling us several items want off the table before would begin settlement discussions. We said we wouldn't negotiate preconditions. Everything is negotiable. So willing to talk but we were not willing to take things off table, not our policy, how we do things. Time ticking on tolling agreement. We decided to be proactive, we indicated we wanted extension of tolling agreement. Another chance before filing of lawsuit. And so, we decided to look closely at those items US Steel had raised, US Steel reiterated its position. So we wanted to talk. We have looked closely at items raised in call at end of march, specifically:

PSD for gary 4 13 14.

and

Claim for Granite for PSD, indicating no liability because National Steel ownership

and

Slip permit condition should be regulatory and not for judicial CD.

These are the main items. PSD claims the biggest items on the list. We looked at all of those things. Our Response:

PSD for Gary: We believe claims are strong. We believe we can easily prevail. We understand you have concerns and believe the remedies we are proposing are not BACT. The relief is negotiable, ie what is BACT, physically and economically feasible. We will discuss what is appropriate relief, but not off table.

SLIPS- Very important, sign of difficulties, problems, we propose permit condition. We are willing to talk about alternative proposals. But will not take off the table.

Granite City Claims- That is the heart of your objection. You have mentioned Midwest Gen, bankruptcy issue, looked at all of this closely. We concluded that although we could assert a claim, we also recognize, well, a difficult claim, some hoops. If assigning litigation risk, highest to this claim. This is the more difficult claim. And you (US Steel) particularly interested in this. So we will take the Granite City PSD claims off the table. So we have a final position on this. So with that, leave it to US Steel.

Van- You correctly outlined the issues we felt should be taken off the table. Perhaps using

examples, you believe we don't feel as strongly as Gary as at Granite. Not true. The 1990 reline of No. 4 furnace, and the 13 14 reline. Those items very significant and important to us.

Particularly the No. 4 furnace as an example because the relief you are requesting, saying the 1990 reline, you demand positive controls on all four of the south furnaces. An enormous multiplier. Many Blast Furnaces use flame suppression. US Steel negotiated, months of testing to demonstrate effectiveness on casthouse reductions. "Stretch out" negotiations on flame suppression. As a consequence, you are potentially making US Steel only company that can not use flame suppression.

Arnie- we need technical people to have technical discussion.

Van- I'm just saying with respect to the demand. This goes beyond existing MACT standard, beyond BACT, beyond flame suppression. Want these off table because this is rulemaking which would put us at disadvantage, doesn't make sense to control sources that achieve compliance using flame suppression. Needs to be taken off table because it is rulemaking.

Dave- and the timing is optimal because working on the rule. Will be addressed when looking at the MACT standard. We are working with EPA right now on the rule making, giving lots of info. Already engaged in rulemaking.

Sabrina- not trying to subvert rulemaking, we are focused on NSR, appropriate controls under PSD and NSR. Open to discussing. But can't discuss technical nature w/o engineers.

Dave- 6 and 8, no PSD allegations, but settlement brings this in. We believe not PSD or NSR on number 4, but quite a multiplier to bring in 6 and 8.

Arnie- our proposal to you is with regard for active controls on 4 6 and 8. Liability for PSD is with No. 4. My understanding is that at physical and economic convenience, as a joint sort of control. So a physical and economic savings and efficiency. Correct, though, only PSD for 4, not 6 and 8. We are open to discussing.

Iva- looking at PSD claims, significant net emissions increase, utilizing available control technology, so whether relief applies, is a technical conversation. But underlying prima facie case is a net increase, so don't feel appropriate to take off the table.

Dave- thanks for making clear. Whole issue with south furnaces, don't believe big impacts to ambient air quality. We reiterate don't want to put controls on just for the sake of putting controls on.

Arnie- Good discussion, we can take concerns back to our engineers, and if you want to give us any information to take back to our engineers you should supply that.

Van- Blast Furnace Slips. Do you believe that the limitation is required?

Arnie: Won't take off table, but for discussion.

Van: We also complained that you evaluate demand for baghouse on 7 for battery at Gary off the table. If going to address slips, then all of industry should be addressed, don't believe limit on number of slips is appropriate. Do not want to be at competitive disadvantage, and unions may want to weigh in on safety issue. So feel do not want to force operators to take any sort of dangerous risk. This becomes much broader, to rulemaking as an enforcement mechanism. Feel very strongly about that point, having had a furnace explode. An enormous event. An incredible circumstance. And we will not encourage those sorts of events.

Sabrina- if we have a conversation, with Brian, we can talk about ways to deal with this. Brian thinks can deal with w/o compromising safety.

Van- Having the length of experience of our engineers, we do have some basis for concern. If we ever get to that point we will want to understand.

Dave- This is a very furnace specific issue, slips are not 100 percent avoidable. This is what our engineers say. Just wanted to reiterate.

Van- We have heard you and we want to respond. Very disappointed, 13 14 have all the controls anybody could want, with exception of sulfur removal. No. 4 furnace, this is 1990. Boggles my mind that you believe injunctive relief for South furnaces (small 6 4 and 8) is necessary. We will let you know on Monday when we can get back to you with a response.

Arnie- But we have a timing issue. You agreed to only 30 days for tolling agreement. We have to move forward by the later part of next week, we are out of time. No later than midweek.

Van- We will respond by Wednesday of next week.

From Sabrina (with a few Arnie edits):**I. Gary NSR Claims**

- a. Arnie: strong claims, easily prevail; if USS is concerned that proposed remedy isn't BACT, we will talk about it with you and negotiate (economically/technically feasible). But won't take off table.
- b. Van: Using examples perhaps led us to believe we don't feel as strongly about Gary NSR as Granite NSR. We believe 1990 reline should be off table and 13/14 reline. Particularly #4 furnace: relief requesting saying that 1990 reline of small south furnace, demand is to put positive controls on all 4 of south furnaces is an enormous multiplier. There are many blast furnaces that involve flame suppression, which USS developed and made part of stretch out negotiations and months of demonstrating to demonstrate effectiveness and as result conducted seminars. As consequence, we would be only company that says can use flame suppression.
- c. Arnie: discussion more appropriate for engineer involvement.
- d. Van: South furnace - don't believe there are significant impacts on ambient air quality. Also, why are you asking for controls on 4, 6 and 8 when only 4 has the PSD claim? Are you saying 6 and 8 have PSD claims, too?
- e. Arnie: We can take your concerns as to relief proposed back to engineers. And would prepare our engineers for next meeting. Only 4 has PSD claims, but my understanding from our engineers is that active controls such as a common baghouse for all 3 units makes sense in terms of physical and economic convenience for US Steel as well as efficiency and ensuring compliance.
- f. Van: 1990 and 13/14 not taking off table?
 - i. Arnie: Not taking off table.
 - ii. Van: 13/14 has all controls one could want. And Number 4 South is a very old, small furnace, why would injunctive relief be appropriate.
 - 1. Arnie: only proposal for 13/14 is to increase air flow and DSI for SOs
 - 2. David: understand, but more suitable for technical discussion.
 - iii. Van: Take demand of BH #7 at Gary off table was also request.

II. Granite NSR Claim

- a. Arnie: this was USS's major concern and made legal arguments (successor liability, bankruptcy); we concluded that although we believe rule 11 wouldn't prevent us from asserting claim, it would be hardest claim to prove – develop factual and litigation case. Highest risk to this claim at least in comparison to other claims. We will take this claim off the table.

III. Relief Valve Claim:

- a. Arnie: USS stated that limiting slips in permit wasn't appropriate for injunctive relief (IR). But resolving this problem is important. Permit condition is recommendation/proposal, but as with other things we are willing to negotiate and consider other proposals.
- b. Van: not taking slips off table?
 - i. Arnie: not taking off table.

- ii. Van: if going to address that, then all industry needs to address b/c don't think limitation on slips is insignificant. Unions and others have right to weigh in on limitations that could have significant safety criteria. There rulemaking is appropriate measure. Demand would go beyond MACT (slips and flame suppression); US wants to do rulemaking through settlement. This is significant safety issue. Furnaces have blown up.
- c. Sabrina: Brian thinks there are ways to resolve slips without compromising safety. We won't be able to fully discuss this without the engineers at the table. If your engineers have safety and technical concerns, then better to discuss with technical staff.

IV. Next Steps

- a. Dave/Van: we won't have a response by Monday, but will tell you when we will have response
- b. Arnie: we have to terminate negotiations by the latter part of next week, b/c we have to issue demand later. Need response by Wed.
- c. Van: we will respond by Wed of next week, and if we can't then we will let you know.